

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

RESEA PROJECTS APS
Plaintiff,

v.

**RESTORING INTEGRITY TO THE
OCEANS, INC. AND KIERAN KELLY**
Defendant.

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CAUSE NO. 5:21-CV-1132-JKP

**OPPOSED MOTION TO WITHDRAW AS
COUNSEL**

**TO THE HONORABLE UNITED STATES JUDGE FOR THE WESTERN DISTRICT OF
TEXAS, SAN ANTONIO DIVISION:**

Movant Joseph Hoelscher moves for leave to withdraw as counsel for Defendant Restoring Integrity to the Oceans, Inc. (“RIO”) and Defendant Kieran Kelly, and would show the Court as follows:

I.

1. Defendant Kieran Kelly is also the CEO of Defendant Restoring Integrity to the Oceans, Inc. Movant has appeared as co-counsel of record for both Defendants.

2. The current procedural posture of this case revolves around Plaintiff’s request for temporary injunctive relief and expedited discovery regarding the requested relief. *See* Agreed Order on Expedited Discovery, Dkt. #23. Discovery is closed. *See id.* However, the Court allowed certain discovery actions to be taken after the close of discovery. *See* Order, Dckt. #45.

3. The current deadlines in this matter include the deadline for Defendants to file a response to Plaintiff’s Emergency Motion to (A) Schedule Status Conference Regarding Spoliation by Defendants and (B) Reset Plaintiff’s Discovery Deadlines. The response is due, per Court order, Friday, April 29. Order, Dkt. #49. Plaintiff’s response to Defendants’ motion to compel, Dckt. #48,

is also due April 29.

II.

4. “An attorney may withdraw from representation upon leave of court and a showing of good cause and reasonable notice to the client.” *In re Wynn*, 889 F.2d 644, 646 (5th Cir. 1989). An attorney may seek to withdraw if the representation has been rendered unreasonably difficult by the client. TEX. R. DISCIPLINARY RULES PROF’L CONDUCT R. 1.15(b)(6). Further, “[a]n attorney seeking to withdraw from a case must file a motion specifying the reasons for withdrawal and providing the name and office address of the successor attorney.” W.D. TEX. LOC. R. AT-3. “If the successor attorney is not known, the client must set forth the client’s name, address, and telephone number, and must bear either the client’s signature or a detailed explanation why the client’s signature could not be obtained after due diligence.” W.D. TEX. LOC. R. AT-3.

5. Withdrawal is necessary because the representation has been rendered unreasonably difficult. As an example, after Movants informed Kelly of Plaintiff’s “spoliation” motion and the Court’s order requiring a response, Kelly expressed that he wishes to address the Court directly with respect to the motion and the topic of his emails and that he does not want Movants to prepare a response to the motion. Thus, Movants are unable to prepare a substantive response to Plaintiff’s motion as required by court order.

6. Movant Joseph Hoelscher has been told by Kelly to stop performing work and that Kelly refuses to work with him. Hoelscher has been removed from WhatsApp chats and other channels for communications. Kelly has not signed this Motion to Withdraw.

7. Withdrawal is justified based on Movant’s representation being rendered unreasonably difficult. Further, withdrawal should not unduly delay the case nor prejudice Defendants. No hearing has been set on the merits of Plaintiff’s requested temporary relief.

Movant is filing a separate motion to extend the time for Defendants to respond to the motion as well. Further, Plaintiff has already requested an expedited hearing, at which time the Court may take up the issue of withdrawal and hear from Kelly directly.

8. Defendants' counsel has conferred with Plaintiff's counsel and Plaintiff's counsel has advised this motion is opposed.

9. Defendant Kieran Kelly's phone numbers are 614-800-2165 and +62-813-1668-1688. Movant is not aware of Kelly's personal address, however, the Court may reasonably expect to contact him through the mailing address of Defendant RIO as he is the CEO of RIO and RIO is a defendant in this suit. That address is P.O. Box 700734, San Antonio, Texas 78270.

10. Defendant Restoring Integrity to the Oceans, Inc.'s phone numbers are 614-800-2165 and +62-813-1668-1688. Defendant RIO's physical address is 2195 Redwoods Crest, San Antonio, Texas 78232. RIO's mailing address is P.O. Box 700734, San Antonio, Texas 78270.

11. For the foregoing reasons, Movant pray that the Court grant his motion to withdraw, discharge him as counsel of record for Defendants, and to any and all further relief to which they may be justly entitled in law or equity.

Respectfully submitted,

/s/ Joseph Hoelscher

Joseph Hoelscher

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Counsel for Defendants

CERTIFICATE OF SERVICE

I do hereby certify that the foregoing instrument was served on the following counsel this April 29, 2022, pursuant to Rule 5 of the Federal Rules of Civil Procedure, via the email and has been electronically filed through the CM/ECF Federal filing system:

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/s/ Joseph Hoelscher
Joseph Hoelscher

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

RESEA PROJECTS APS

Plaintiff,

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Defendant.

ORDER

On _____, 2022, came on to be considered Joseph F. Hoelscher's Motion to
Withdraw as Counsel, and said motion is hereby

(Granted) (Denied)

JUDGE PRESIDING